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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

10 Cr. 336 (LAK)

5 PAUL TATE,

6 Defendant.

7 -----x

8 New York, New York  
9 November 28, 2016  
2:40 p.m.

10 Before:

11 HON. LEWIS A. KAPLAN,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: NIKETH VELAMOR

Assistant United States Attorney

18 DAVID M. ZINN

19 BETH A. STEWART

Attorneys for Defendant

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1 (Case called)

2 THE COURT: Good afternoon.

3 I hope everybody has worked off the turkey.

4 Mr. Zinn.

5 MR. ZINN: Yes, your Honor.

6 THE COURT: OK. Have you and your client had the  
7 presentence report for the necessary period and both read it?

8 MR. ZINN: We have, your Honor.

9 THE COURT: And Mr. Tate, have you yourself read the  
10 presentence report?

11 THE DEFENDANT: I have, your Honor.

12 THE COURT: You may be seated.

13 It will be sealed and made available to counsel in the  
14 event of an appeal.

15 Are there any unresolved objections to the presentence  
16 report?

17 MR. ZINN: No, your Honor.

18 We had a few minor clarifications which I think are  
19 not objectionable to my knowledge.

20 THE COURT: Mr. Velamoor?

21 MR. VELAMOOR: No, your Honor.

22 THE COURT: Thank you.

23 I adopt the presentence report and the guideline  
24 computation and range that it contains.

25 I have received in relation to the sentencing a

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1 sentencing memorandum on behalf of the defendant and the  
2 presentence report. Is there anything else of which I ought to  
3 be aware?

4 MR. VELAMOOR: Nothing from the government, your  
5 Honor.

6 MR. ZINN: No, your Honor. We're happy to submit on  
7 the record, your Honor.

8 THE COURT: You're happy to?

9 MR. ZINN: Submit on the record before the Court.

10 THE COURT: I'm not following. You don't want to be  
11 heard the issue of sentencing.

12 MR. ZINN: I am happy to be heard, your Honor, if you  
13 have questions, but I'm also happy to submit on the papers.

14 I don't have much to add to what we have submitted to  
15 the Court.

16 THE COURT: I understand.

17 MR. ZINN: I can speak for a few minutes about  
18 Mr. Tate, if that will be helpful to the Court.

19 THE COURT: No. I'm familiar with the materials.

20 It is up to you.

21 MR. ZINN: Let me say a few words, your Honor.

22 Thank you.

23 THE COURT: All right.

24 MR. ZINN: I would like to talk a little bit just  
25 about Mr. Tate personally. I hope this came across in the

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1 papers and through the letters that were submitted to the  
2 Court, but he is a very modest, unassuming man. He lives a  
3 fairly straightforward life. He basically worked and took care  
4 of his family. He's married, been with his now wife for 17  
5 years. He has two young children, a five-year-old and a  
6 seven-year-old. They we live a simple life on the Isle of  
7 Mann.

8 He is not a flamboyant guy. He's not the typical  
9 person you would expect to see before the Court, particularly  
10 in a gambling case. I think it was put well in the report that  
11 your Honor received that, but for him having taken a job at  
12 PokerStars he would not be before the Court.

13 Insofar as his job is concerned, your Honor, as is  
14 clear from the papers that were before the Court, he was a very  
15 minor participant in the offense. He's differently situated  
16 than the others that are before the Court in the sense that he  
17 is not a senior executive at one of these companies. He was  
18 not a founder of one of the companies, and, most importantly,  
19 not a decision maker.

20 He came into the company in 2006. He entered in  
21 basically a tech job. That is his background, with experience  
22 on the Internet, and then after a couple of years was assigned  
23 to deal with some U.S. processing issues. That's what brings  
24 him before the Court.

25 The PSR has recommended, and obviously we concur your

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1 Honor, and you saw that in our submission, that the Court  
2 impose a noncustodial sentence of time served on Mr. Tate.  
3 That's within the guideline range. He has suffered already  
4 significant consequences, and this has been a very difficult  
5 process for him. Obviously he lost his job a couple of years  
6 ago. He has a record now, a felony record in the United  
7 States, that he will have to confront for the rest of his life.  
8 He's in his 40s now. This has had an impact on him and his  
9 family as well.

10 He came here voluntarily this year on his own, where  
11 there was no extradition available to the United States,  
12 because he wanted to put this behind him and he wanted to come  
13 before the Court and do that. That's why he's here. He's been  
14 here since July. We have had, as your Honor is aware, an  
15 ongoing dialogue with the U.S. Attorney's Office that  
16 culminated in his plea.

17 The only other point I would make, your Honor, on the  
18 request for the noncustodial sentence of time served is his  
19 status as a non-U.S. citizen puts him in a different position  
20 than others relative to sentencing. If he were incarcerated in  
21 the case, as we pointed out in the papers, there are  
22 restrictions on where he could serve time, and we do have a  
23 concern, your Honor, that if he is incarcerated that the  
24 process of exiting the United States could be very confusing  
25 and time consuming and difficult. He could be sort of in the

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1 immigration limbo world for sometime that would cause him to be  
2 incarcerated for a period of time that might even be longer  
3 than any sentence the Court might impose. I hope the Court  
4 would take that into consideration in its deliberations about  
5 the case as well.

6 We submitted to the Court some statistics that reflect  
7 how other courts in this district have treated similarly  
8 situated defendants who have entered a plea to a 1955 and all  
9 of those courts have entered probationary sentences, and we  
10 would ask your Honor to enter a sentence of time served here.

11 THE COURT: Thank you.

12 MR. ZINN: Thank you, your Honor.

13 THE COURT: Mr. Tate, you have a right to speak before  
14 your sentence.

15 Is there anything you would like to say.

16 THE DEFENDANT: Yes, your Honor. I very much regret  
17 the choices I made. It is wrong to violate the laws of another  
18 country, and there can be no excuses for doing so. I am aware  
19 of the seriousness of this.

20 I wish to sincerely apologize to the Court and to my  
21 family. I came to New York several months ago to address this  
22 matter, and I hope that the Court will consider my genuine  
23 remorse in considering my case.

24 THE COURT: Thank you.

25 THE DEFENDANT: That is it, your Honor.

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1 THE COURT: Mr. Velamoor?

2 MR. VELAMOOR: Your Honor, unless the Court has  
3 questions, which I am, of course, happy to answer, the  
4 government believes a guideline sentence is appropriate.

5 THE COURT: I am just probably oddly curious, but  
6 curious nonetheless, as to understand why the United States  
7 could not have extradited Mr. Tate, which I imagine is wrapped  
8 up in what the legal status of the Isle of Mann is in the  
9 United Kingdom or its association with the United Kingdom. It  
10 has no bearing on what I am going to do here, but I am curious.

11 MR. VELAMOOR: That's correct, your Honor.

12 Our office explored the issue of whether or not U.K.  
13 or the Isle of Mann would extradite for the charges at issue in  
14 this case. We explored that issue with the Department of  
15 Justice in Washington and otherwise. It was made quite clear  
16 to us that for these offenses there would not be any kind of  
17 extradition of any defendants to the U.S. Therefore, I think  
18 for defendants abroad we've tried to work to obtain their  
19 surrender, which is what we were able to do in this case.

20 THE COURT: Do I understand correctly that the reason  
21 extradition was unavailable was because the charged offense was  
22 not within the treaty between the United States and the United  
23 Kingdom and not because of something having to do with the  
24 peculiar legal status of the Isle of Mann?

25 MR. VELAMOOR: Yes. That is my understanding. I must

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1 say I was not personally involved in that in the office, but  
2 from what I have been told, yes, it was because of the nature  
3 of the offense.

4 THE COURT: All right. Thank you for that.

5 Mr. Tate, please rise for the imposition of sentence.

6 I accept that you are entirely remorseful for this.  
7 Given the fact that you couldn't have been extradited for this  
8 offense, you deserve a world of credit for coming back here and  
9 facing the music as it were.

10 I see no point in a sentence of incarceration at all.  
11 In consequence, it is the judgment of this Court that you be  
12 committed to the custody of the Attorney General of the United  
13 States for a term of imprisonment of time served, that you  
14 forfeit to the United States the sum of \$119,000 on the terms  
15 and in the manner set forth in the consent preliminary order of  
16 forfeiture that was filed in this case on October 19, and you  
17 shall pay the mandatory special assessment of \$100.

18 I advise you that, to whatever extent you haven't  
19 waived it, you have the right to appeal from the judgment  
20 imposing this sentence. If you wish to appeal, you must file a  
21 written notice of appeal with the clerk of the district court  
22 no later than 14 days after the date on which judgment is  
23 entered, which could be as soon as tomorrow.

24 In the event you wish to appeal and you can't afford  
25 to pay the fees necessary to do so, you have the right to apply



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1 for permission to appeal as a poor person. If such an  
2 application were granted, you would be permitted to appeal  
3 without payment of the fees, and if you couldn't afford a  
4 lawyer, a lawyer would be provided for you at government  
5 expense.

6 You may be seated.

7 Now, Mr. Velamoor, there may be some unresolved  
8 counts. If so, I am not aware of them. Would you remind me,  
9 please.

10 MR. VELAMOOR: Yes, there are some unresolved counts,  
11 and we would move to dismiss those counts.

12 THE COURT: That motion is granted.

13 In terms of the mechanics here, I assume, Mr. Tate is  
14 on bail, is that right?

15 MR. VELAMOOR: He is on bail. Yes. That's correct.

16 THE COURT: The terms of the bail are?

17 MR. VELAMOOR: The terms of the bail include a  
18 substantial cash deposit I believe of \$1 million.

19 MR. ZINN: That's correct, your Honor.

20 MR. VELAMOOR: We will obviously cooperate to have  
21 that money returned because my understanding is the defendant  
22 has paid the forfeiture amount already. So he's entitled to  
23 the return of his bail.

24 THE COURT: Is there any reason why I shouldn't on the  
25 record here now exonerate the bail?

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1 MR. VELAMOOR: I don't believe there is any reason. I  
2 also think that should include the return of his passport so  
3 that he can return back to the Isle of Mann.

4 THE COURT: Bail is terminated. The bond is  
5 exonerated. And Mr. Tate's passport shall be returned to him  
6 as promptly as possible.

7 Anything else?

8 MR. VELAMOOR: Nothing further from the government,  
9 your Honor.

10 Thank you.

11 THE COURT: Counsel?

12 MR. ZINN: No, your Honor. Thank you, your Honor.

13 THE COURT: Thank you. Have a good trip back,  
14 Mr. Tate.

15 THE DEFENDANT: Thank you, your Honor.

16 (Adjourned)